

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
June 22, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Conze, Kenny, Forman, Spain

STAFF ATTENDING: Ginsberg, Keating

Mr. Damanti opened the Public Hearing and noted that **Business Site Plan #140-A/Special Permit, Whitman Foods LLC/Uncle's Deli, had been withdrawn.** He also read Coastal Site Plan Review #138-C, Flood Damage Prevention Application #140-C, Janice A. Mahaney, 26 Shipway Road, and noted that the item had been postponed until July 27, 2004. He then read the first agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #187-A, Flood Damage Prevention Application #205, Land Filling & Regrading Application #107-A, Richard & Robin Woods, 137 Five Mile River Road. Proposing to construct a stone and masonry retaining wall and place approximately 95 cubic yards of fill behind it and perform related site development activities within regulated areas. The subject property is located on the east side of Five Mile River Road, approximately 1150 feet south of its intersection with Davis Lane, and is shown on Tax Assessor's Map #67, as Lot #5 in the R-1/2 Zone.

Mr. Jeff McDougal of William Seymour & Associates noted that there is a correction. They are proposing 95 cubic feet of fill behind the wall, not 95 cubic yards of material. They were waiting for a response from the Darien EPC, and the Permit was granted (EPC 24-2004). They have also received additional comments from the State of Connecticut DEP. They are proposing a small retaining wall to prevent erosion of the soil into the mudflats.

Mr. John Roberge, PE, said that the wall near the house is being rebuilt. They are asking to build a wall two feet higher than that for safety, to provide a barrier. There will be no change on the amount of fill behind the wall. This has been approved at approximately four feet tall from the outside, and now it would be six feet tall. The EPC did not consider the upper wall in their deliberations. He noted that there were a series of meetings and telephone discussions including two on-site inspections with John Gaucher of the State of Connecticut DEP. Mr. Roberge said that the area of the proposed wall was the former site of the seawall, but that has worn away. The erosion is now contributing to the filling in of existing wetlands. Alluvial sediments are being deposited on the mudflats. He said that the entire proposed wall is outside the DEP's regulatory jurisdiction.

Mr. Roberge believed that due to the steepness, the vegetative measures would not effectively hold the soil back. There are no other known methods to stabilize the slope. He explained that the DEP comments say that the establishment of the wall is against their policy. Mr. Roberge said that the policies are meant to apply to work within their jurisdiction, which is at or below sea level, but this area is above mean high water. He then showed photographs of the site taken last fall (although they were dated spring). The wall will be founded on rock with reinforced rods. The growth cannot

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be maintained in the rock. They will use salt-tolerant grass in the fill above the stone wall. The north end of the wall will be stone just north of the tufted grass shown in the photos. Mr. Roberge said that the tufted grass has been eroded away. It was mentioned that the Commission had a letter from Mr. Woods. Mr. Spain noted the proposed two-foot vertical extension of the upper wall. Mr. McDougal said that the approved plan called for stepping stones through the south section of the wall (not through the central and northern sections). He said that the grade goes steeply up to the base of the 4'-6' stone wall. Mr. Roberge noted that there was ivy there before. Mr. Kenny said that he has concerns about how this will be viewed from the water side of the property. Mr. McDougal responded that any increase would be barely perceptible from the channel of the river. Mr. Chip Dunn, the builder, said that he was not sure of the details of the landscape plan, but that the owners do have plans to install some landscaping.

There being no other questions or comments, Mr. Kenny made a motion to close the Public Hearing. Mr. Spain seconded that motion, and it was unanimously approved.

Continuation of Public Hearing regarding Coastal Site Plan Review #194, Flood Damage Prevention Application #6-A, Land Filling & Regrading Application #120, Robert & Debra Lee, 8 North Road. Proposing to raze the existing residence and construct a new residence and associated septic system and perform related site development activities within regulated areas. The subject property is located on the southeast side of North Road, approximately 410 feet north of its intersection with Butler's Island Road, and is shown on Assessor's Map #67 as Lot #74, R-1 Zone.

Attorney Wilder Gleason was present on behalf of the applicant. They had awaited their EPC hearing, and there will likely be action at the EPC meeting in early July. He explained that the property is a one-acre site, and is shown on Assessor's Map #67 as lot #74, and is on Map #1519 in the Darien Land Records. They have modified the plans. The property is in Flood Elevation AE12, and a four bedroom residence was constructed on the site in 1961, with alterations done in 1982. The pool was also built in 1982. There are now two driveways from North Road to the existing house. Everything landward from the easterly wall is fully developed as a pool, terrace, driveway, house, and lawn and landscaping. They propose to have a five bedroom residence with associated septic system. The new house will comply fully with all zoning setbacks. Mr. Gleason then referred to the June 4, 2004 revised site plan showing different septic system gallery locations. He said that the house will step down and that stone retaining walls will be extended. They will be installing a pipe from the catch basin in the street along the southwest portion of the property line to discharge. A three foot high stone wall will be proposed at the southwest property line to contain runoff from the septic regrading. This application is for filling in a flood zone, Coastal Area Management Review, and filling within 15 feet of the property line. Mr. Gleason explained that there would be no adverse environmental impacts as a result of this project. He said that they will be making the new house comply with zoning setbacks, but portions of the new residence are within the 100' Coastal Area Management area.

Architect Robert Cardello of Cardello Architects said that the proposed house would blend into the rocky, steep slope and avoid the need for a variance. He then showed illustrations to the Commission. They show the main entrance to the house at Elevation 20, with two bedrooms to be added above as a half story. Engineer Todd Ritchie of Stearns & Wheler then noted that a drainage problem was noted at the catch basin in the low spot in the street. He added that the septic plan was approved by the Darien Health Department. They will be piping the storm water beyond the septic system, and have

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an energy dissipater at the outlet and outflow towards the river through the weep hole. He said that there will be no cutting, but there will be approximately 800 cubic yards of fill needed for this project. He said that the north driveway would require very little regrading or removal of ledge. In response to a question, Mr. Ritchie explained that there would be some chipping of rock necessary, but no blasting. Mr. Kenny said that there is a revised version of the engineering report, but that the report failed to include the revised site plan that shows less residence being built. In order to receive the final report from the EPC, Mr. Kenny made a motion to continue the Public Hearing on this matter to July 13, 2004 at 8 p.m. in Room 206 of Town Hall. That motion was seconded by Mr. Spain and unanimously approved.

The Public Hearing on this matter was closed at 9:15 p.m.

Mr. Damanti then read the next agenda item:

Change of Zone Application, Amendment of Zoning Regulations, Dominick & Annette Miceli, Wakeman Road. Proposing to remove the Wakeman Road Affordable Housing Overlay Zone from the Darien Zoning Map, and delete Section 560 from the Darien Zoning Regulations. The subject properties are on the west side of Wakeman Road approximately 230 feet north of its intersection with Old King's Highway North, and is shown on Tax Assessor's Map #32, as Lots #28-A and #28-B, in the R-1/2 and Wakeman Road Affordable Housing Overlay Zone.

Attorney Bruce Hill was present on behalf of the applicant. He explained that the proposal is to amend the Darien Zoning Regulations and Darien Zoning Map. They propose to delete Section 560 and the Zoning Map reference to the Wakeman Road Affordable Housing Overlay Zone. He explained that the only remaining appeal in court is of the creation of this affordable housing overlay zone. Mr. Hill explained that instead of continuing to litigate the matter, it is better to eliminate the zoning district, and that will make the existing lawsuit (the appeal from the neighbors) moot. There were no further comments from the applicant, any neighboring property owners, or the Commission.

At 9:20 p.m., Ms. Forman made a motion to close the Public Hearing on this matter. That motion was seconded by Mr. Spain and unanimously approved.

Mr. Damanti then read the next agenda item:

Mandatory Referral, Land Filling & Regrading Application #53-B, Darien Board of Education, Darien High School, 80 High School Lane. Proposing to install a synthetic turf multi-use athletic field and running track and perform related site development activities. The subject property is located on the north side of High School Lane, approximately 750 feet west of its intersection with Middlesex Road, and is shown on Tax Assessor's Map #9 as Lots #80 & #81, R-2 Zone.

Mr. Paul Engemann, Director of Facilities and Construction for the Board of Education, was present to explain the application. He said that they are proposing to install a new synthetic tuft field, which is approximately 18,000 square feet larger than the existing field. This is about 16% larger. They will also be installing a new six-lane track (with eight lanes near the building for sprinting). The visitor-side bleachers that seat 500 people will be moved and replaced. They also plan to replace the scoreboard and the fencing. The baseball field to the east will be slightly modified. Mr. Engemann

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explained that they would be using six inches of porous base with drainage pipes and two inches of aggregate. They will then install the carpet layer which has a porous backing. Then they will place a layer of sand and then sand/rubber. Then they will install rubber layers to hold the carpet down and stand the "grass" up, and it provides shock-absorbency. Landscape Architect Bob Golde said that the track is being moved out 50'-60' in order to accommodate potential use for soccer games. He said that the JV baseball field will be reoriented, and the left field shortened by about 20'. The parking lot to the south will be unchanged. They have tried to keep the work outside the wetlands boundary and the regulated area.

Mr. John Kelleher, Athletic Director for Darien, said that there are no proposed lights as part of this application. They would prefer to have an eight-lane track all the way around, but having six lanes is adequate. Mr. Engemann noted that one of the benefits of the synthetic turf field is that there is no need for weed killers or fertilizer. It comes with a 10-year warranty.

Mr. Eric Simonson of 362 Hollow Tree Ridge Road explains that he lives adjacent to the Darien High School site, but not adjacent to the proposed field. He said that the specific location of the new High School was selected in part to save the existing football field. Now, that football field needs to be ripped up. He explained that start times for construction for the new High School have not been adhered to. He said that with this project for the turf field, he would like to make sure that all start times have been enforced. He said that there has been a very large increase in runoff water to downhill property owners. He said that drainage issues are being dealt with by EPC, and that the silt control works adequately sometimes, but that they need to have more, constant attention and maintenance. He said that during construction there is not much porous land left.

Mr. Joe Canas, PE, explained the surface water/drainage plan. He said that the existing catch basins collect water around the field, and then will discharge to Stony Brook and then flow to the east and to the south. Under the proposed conditions, they will have a grass swale down to the stream instead of a 10-inch diameter pipe. The swale will have a stone base in order to absorb some water, and a network of pipes will channel it away. He said that the track pitches in towards the field, and that the turf field would be crowned. He said that everything will drain to the north, and they are not increasing the peak flow into Stony Brook.

Mr. Peter Maglathlin noted that Mr. Simonson is the only neighbor complaining about the ongoing construction at the High School. He said that there are approximately 250-300 workers on site on a daily basis, and he acknowledged that there have been some incidents. The High School Building Committee has been dealing with any problems. There are 300-400 feet of woods between the school and the Simonson property.

Mr. Ginsberg explained that the request this evening is for both the Mandatory Referral Report and a Land Filling and Regrading Application. He mentioned that the EPC Permit approval is still pending.

Therefore, on a motion by Mr. Conze, seconded by Mr. Kenny, a motion was made to continue the Public Hearing to July 6, 2004 in Room 206 of Town Hall. That motion was unanimously approved.

Mr. Damanti then read the next agenda item:

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Special Permit Application #77-G, Darien United Methodist Church, 345 Middlesex Road.

Proposing to add three Sunday school classrooms and add to the narthex and perform related site development activities. The subject property is located on the northwest corner formed by the intersection of High School Lane and Middlesex Road, and is shown on Tax Assessor's Map #9 as Lot #82, R-2 Zone.

Mr. Jim Archibald, Chairman of the Board of Directors, and Dr. Mark Dam, Chairman of the Building Committee, were present to explain the application. Dr. Dam noted that three new classrooms would be added. An addition will be constructed on the side of the building for coffee hours and other events. Dr. Dam explained that they are not increasing the capacity of the sanctuary, and the three new classrooms are for Sunday school use only. The multi-purpose room to be created will be for coffee hour and other social functions. They will not be reducing parking nor increasing the parking demand. There will be no increase in the hours of operation of the Church, nor any increase in capacity. A question was asked regarding the tree near the classroom addition. Dr. Dam said that they will try to save the tree. The area where the addition is proposed is now lawn and sidewalk in front of the Church.

There were no comments from the general public on this application, and Mr. Kenny made a motion to close the Public Hearing on this matter. Mr. Spain seconded that motion, and the Public Hearing was then closed at 10:05 p.m.

Mr. Damanti then read the next agenda item:

Coastal Site Plan Review #85-A, Flood Damage Prevention Application # 72-A, Jerry & Susan Elliott, 97 Five Mile River Road.

Proposing to raze the existing garage and construct additions and alterations to the existing residence, construct a new septic system and perform related site development activities within a regulated area. Subject property is located on the east side of Five Mile River Road approximately 500 feet north of its intersection with Davis Lane, and is shown on Tax Assessor's Map #66 as Lot #23, R-1/2 Zone.

Attorney Wilder Gleason was present on behalf of the Elliotts. He explained that there is now a four bedroom residence on the site, which was purchased in 2000. He then submitted a copy of the portion of the Assessor's Map. Mr. Gleason explained that the property is adjacent to the Five Mile River, and they will be removing the garage and breezeway to construct a new garage with addition. He said that they have received a ZBA variance (Calendar No. 37-2004) and approval from the EPC (EPC 49-2004).

Mr. Gleason then displayed photographs and described the site. There will be no increase in the number of bedrooms or the number of bathrooms. They will be keeping the existing septic system, but adding onto the house. All work is within 100feet of the Five Mile River, and erosion controls will be installed. He then noted that a CAM report was submitted for the record as well as a drainage report from Stearns & Wheler. A copy of the reserve alternate septic plan was submitted, and a certification from the architect regarding work in the flood zone. Mr. Gleason noted that there will be filling to make sure that all of the area around the house will be above Elevation 12 so that the house is outside the flood zone. He explained that the EPC had a stipulation regarding filtering of water runoff. In the ZBA approval, there was a stipulation regarding obstructions over

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4 feet high on the south side of the property. He then submitted a copy of each of those approvals for the record.

Mr. Ginsberg explained that a memo was received from DEP dated May 24, 2004 stating that they had no comment. Mr. Ginsberg said that letters were sent to Norwalk and SWRPA as required by State Statutes, and they had no response. The Five Mile River Commission sent a June 10, 2004 letter stating that they had no opposition to this project. Mr. Jerry Elliot explained that he was concerned with any possible concerns of the neighbors, and then submitted a petition of support from them. There being no other questions or comments, Mr. Conze made a motion to close the Public Hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti then read the next agenda item:

Flood Damage Prevention Application #209, Edward Holcomb & Heather Winters, 4 Waverly Road. Proposing to construct a covered front porch addition to the existing residence, and perform related site development activities within a regulated area. The subject property is located on the northwest corner formed by the intersection of Waverly Road and Baywater Drive, and is shown on Tax Assessor's Map #55 as Lots #14 & #15, R-NBD Zone.

Ms. Winters explained the proposed addition to the residence. She said that the first floor of the front porch addition will be at Elevation 11, and they are proposing a 64 square foot addition to the second floor. The proposal has been designed to withstand all flood forces. There were no comments from the general public or Commission members. Mr. Conze then made a motion to close the Public Hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved by the Commission.

There being no other matters on the agenda, the meeting was adjourned at 10:26 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning and Zoning Director

David J. Keating
Assistant Director of Planning